

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

v.

**No. CIV 09-0339 MCA/LAM
CR 07-0378 MCA**

RAYMOND ELOY SEDILLO,

Defendant/Movant.

ORDER

THIS MATTER is before the Court on Defendant/Movant Sedillo's ***Motion Requesting Court Appointment of Counsel*** (CV Doc. 5), filed on April 21, 2009. The Court has reviewed the motion and **FINDS** that the motion is not well-taken and should be **DENIED** at this time.

In his motion, Mr. Sedillo requests the appointment of counsel in this proceeding; however, there is generally no federal constitutional right to counsel in a proceeding brought under 28 U.S.C. § 2255. *See Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987) ("We have never held that prisoners have a constitutional right to counsel when mounting collateral attacks upon their convictions, and we decline to so hold today.") (citation omitted). The decision of whether to appoint counsel is left to the discretion of the Court. Ordinarily, there is no reason to appoint counsel unless the case has reached the stage of proceedings where an evidentiary hearing is required. *See, e.g., United States v. Leopard*, 170 F.3d 1013, 1015 (10th Cir. 1999). As there is no need for an evidentiary hearing in this case at this time, the Court finds that appointment of counsel would be premature. Therefore, the Court will deny Mr. Sedillo's motion at this time.

IT IS THEREFORE ORDERED that Defendant/Movant Raymond Eloy Sedillo's *Motion Requesting Court Appointment of Counsel* (CV Doc. 5) is **DENIED** at this time.

IT IS SO ORDERED.



LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE